

June 11 2009

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

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 and the Urquharts (Appellees/Cross-Appellants)

FILED

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CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

Supreme Court Cause No. DA 09-0322

PLAINS GRAINS LIMITED PARTNERSHIP,)
 a Montana limited partnership;)
 PLAINS GRAINS INC., a Montana corporation;)
 ROBERT E. LASSILA and EARLYNE A.)
 LASSILA; KEVIN D. LASSILA and)
 STEFFANI J. LASSILA; KERRY ANN)
 (LASSILA) FRASER; DARYL E. LASSILA)
 and LINDA K. LASSILA; DOROTHY LASSILA;)
 DAN LASSILA; NANCY LASSILA)
 BIRTWISTLE; CHRISTOPHER LASSILA;)
 JOSEPH W. KANTOLA and MYRNA R.)
 KANTOLA; KENT HOLTZ; HOTLZ FARMS,)
 INC., a Montana corporation; MEADOWLARK)
 FARMS, a Montana partnership; JON C.)
 KANTOROWICZ and CHARLOTTE)
 KANTOROWICZ; JAMES FELDMAN and)
 COURTNEY FELDMAN; DAVID P. ROEHM)

**NOTICE OF
CROSS-APPEAL**

and CLAIRE M. ROEHM; DENNIS N. WARD)
and LaLONNIE WARD; JANNY KINION-MAY;)
C LAZY J RANCH; CHARLES BUMGARNER)
and KARLA BUMGARNER; CARL W.)
MEHMKE and MARTHA MEHMKE; WALTER)
MEHMKE and ROBIN MEHMKE; LOUISIANA)
LAND & LIVESTOCK, LLC., a limited liability)
corporation; GWIN FAMILY TRUST,)
U/A DATED SEPTEMBER 20, 1991;)
FORDER LAND & CATTLE CO.; WAYNE W.)
FORDER and DOROTHY FORDER;)
CONN FORDER and JEANINE FORDER;)
ROBERT E. VIHINEN and PENNIE VIHINEN;)
VIOLET VIHINEN; ROBERT E. VIHINEN,)
TRUSTEE OF ELMER VIHINEN TRUST;)
JAYBE D. FLOYD and MICHAEL E. LUCKETT,)
TRUSTEES OF THE JAYBE D. FLOYD LIVING)
TRUST; ROBERT M. COLEMAN and HELEN)
A. COLEMAN; GARY OWEN and KAY OWEN;)
RICHARD W. DOHRMAN and ADELE B.)
DOHRMAN; CHARLES CHRISTENSEN)
and YULIYA CHRISTENSEN; WALKER)
S. SMITH, JR. and TAMMIE LYNNE SMITH;)
JEROME R. THILL; and MONTANA)
ENVIRONMENTAL INFORMATION)
CENTER, a Montana nonprofit public)
benefit corporation,)
)

Appellants/Cross-Appellees,)
)

vs.)
)

SOUTHERN MONTANA ELECTRIC)
GENERATION and TRANSMISSION)
COOPERATIVE, INC.; THE)
ESTATE OF DUANE L. URQUHART;)
MARY URQUHART; SCOTT URQUHART;)
and LINDA URQUHART,)
)

Appellees/Cross-Appellants.)
)

BOARD OF COUNTY COMMISSIONERS OF)
 CASCADE COUNTY, the governing body of)
 the County of Cascade, acting by and through)
 Peggy S. Beltrone, Lance Olson and)
 Joe Briggs,)
)
 Appellees.)
 _____)

NOTICE is hereby given that Southern Montana Electric Generation and Transmission Cooperative, Inc. (hereinafter, "SME") and the Estate of Duane L. Urquhart, Mary Urquhart, Scott Urquhart and Linda Urquhart (hereinafter, collectively, "Urquharts"), the Cross-Appellants above-named and who are the Defendants/Intervenors in that cause of action filed in the Eighth Judicial District Court, in and for the county of Cascade, as Cause No. BDV-08-480, hereby cross-appeal to the Supreme Court of the State of Montana from the Final Judgment and Order entered in such action on May 27, 2009, together with the Order on Motions for Summary Judgment and Writ of Mandamus/Writ of Review, dated November 28, 2008, as regarding the mootness issue briefed and argued by SME and those portions of the District Court's rulings on the issue of spot zoning which are adverse to SME and the Urquharts.

THE CROSS-APPELLANTS FURTHER CERTIFY:

1. That this appeal is not subject to a mediation process required by M.R.App.P. 7.

2. That this appeal is not an appeal from an order certified as final under M.R.Civ.P. 54(b). If this is such an appeal, a true copy of the District Court's certification order is attached hereto as Exhibit "A."

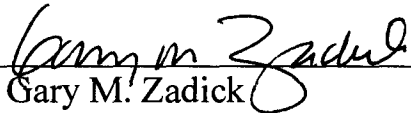
3. That the notice required by M.R.App.P. 27 has been or will be given, within 11 days of the date hereof, to the Supreme Court and to the Montana Attorney General with respect to a challenge to the constitutionality of any act of the Montana Legislature.

4. That all available transcripts of the proceedings in this cause involving the issues cross-appealed have been ordered from the court reporter contemporaneously with the filing of this notice of appeal. If all available transcripts have not been ordered, that Cross-Appellants have complied with the provisions of M.R.App.P. 8(3) contemporaneously with the filing of this Notice of Cross-Appeal.

5. That included herewith is the filing fee prescribed by statute, or the affidavit to proceed without payment of the required filing fee prescribed in the Appendix of Forms as Form 3.

DATED this 10th day of June, 2009.

UGRIN, ALEXANDER, ZADICK & HIGGINS, P.C.

By: 

Gary M. Zadick

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#2 Railroad Square

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Attorneys for Southern Montana Electric
and the Urquharts

CERTIFICATE OF SERVICE

I hereby certify that I have filed a true and accurate copy of the foregoing NOTICE OF CROSS-APPEAL with the Clerk of the Montana Supreme Court; and that I have served true and accurate copies of the foregoing NOTICE OF CROSS-APPEAL upon the Clerk of the District Court, each attorney of record, and each party not represented by an attorney in the above-referenced District Court action, as follows:

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Honorable E. Wayne Phillips
P.O. Box 1124
Lewistown, MT 59457

DATED this 10th day of June, 2009.

Andrea S. Callender
UGRIN, ALEXANDER, ZADICK & HIGGINS, P.C.